

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Penalty Assessment Against
GENIE SERVICE COMPANY, INC. in the
Amount of \$1,200

DOCKET NO. TE-080282

COMMISSION STAFF'S
RESPONSE TO GENIE SERVICE
COMPANY'S APPLICATION FOR
MITIGATION

I. Introduction

1 Pursuant to WAC 480-07-370(1)(c), Staff of the Washington Utilities and
Transportation Commission (Staff) submits this response to Genie Service Company, Inc.'s
Application for Mitigation and Request for Hearing (Application).

II. Genie failed to timely submit its Application to the Commission.

2 The Commission issued a Notice of Penalties Incurred and Due for Violations of
Laws and Rules (penalty assessment) to Genie Service Company, Inc. d/b/a Genie Tours
(Genie) on February 22, 2008. On March 17, 2008, the Commission received an application
for mitigation from Genie, admitting the violations but providing no reasons in support of its
request.¹ The application for mitigation included a request for a hearing on the issue of
mitigation.²

3 The penalty assessment stated that Genie must act within 15 days of receiving the
penalty assessment to request mitigation and/or a hearing.³ The Commission assessed the
penalty under the authority of RCW 81.04.405, which provides that the Commission "may,
upon written application therefor, received within fifteen days, remit or mitigate any penalty
provided for in this section." Genie signed for the penalty assessment on February 25,

¹ See Application for Mitigation on behalf of Genie Service Company d/b/a Genie Tours.

² See *id.*

³ Notice of Penalties Incurred and Due for Violations for Laws and Rules ("You must act within 15 days after receiving this notice"; "send [the enclosed form ... within FIFTEEN (15) days after you receive this notice"; "You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment").

2008.⁴ According to the plain language of the statute, Genie's Application would have had to have reached the Commission within 15 days after February 25, 2008, in order to be timely. This deadline was March 11. According to the language in the penalty assessment, Staff would still view as timely an Application that was *postmarked* on or before March 11. Genie mailed the Application on March 13, 2008.⁵

4 On March 13, the Commission mailed out a letter to Genie notifying the company that the Commission had not received payment for the penalty or other timely response to the penalty assessment and that unless the penalty were paid by March 20 the Commission would consider additional sanctions.⁶ The penalty has not been paid.⁷

5 Because Genie failed to timely submit its Application, Staff opposes the Application. In the alternative, should the Commission wish to consider the Application, Staff asks that the Commission hear the matter as a Brief Adjudicatory Proceeding. Because Genie has admitted the underlying violations in its Application, an evidentiary hearing is unnecessary.

III. Consolidation With Docket TE-061753 Is Unnecessary.

6 Staff notes that it has a pending motion on file to impose penalties suspended in Docket TE-061753.⁸ This motion is based on the same violations that are the subject of the instant penalty assessment. Genie failed to submit a response to the motion by the deadline of March 10, 2008.⁹ This deadline was established by the Commission and communicated by written notice to Genie.¹⁰

7 Because Genie did not respond to Staff's motion, timely or at all, the Commission

⁴ See attached copy of return receipt card on file in the docket.

⁵ See attached Declaration of Betty Young at ¶ 5.

⁶ See Letter Re Penalty Assessment TE-080282 from Carole Washburn to Genie, dated March 13.

⁷ Declaration of Betty Young at ¶ 4.

⁸ Docket TE-061753, Motion to Amend Final Order and Impose Suspended Penalties, filed February 19, 2008.

⁹ See Docket TE-061753, Notice of Opportunity to Respond to Motion to Amend Final Order and Impose Suspended Penalties, issued February 22, 2008.

¹⁰ See *id.*

may proceed with its decision on the motion. Furthermore, because Genie has admitted to the underlying violations in the instant Application, consolidation of the two matters is unnecessary.

DATED this 24th day of March, 2008.

Respectfully submitted,

ROB MCKENNA
Attorney General

JENNIFER CAMERON-RULKOWSKI
Assistant Attorney General
Counsel for Washington Utilities
and Transportation Commission